

Meeting of 2011-2-8 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
FEBRUARY 8, 2011 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank V. Jensen, City Attorney  
   Traci Hushbeck, City Clerk  
COL Fred Erst, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:02 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Reverend Terry Koehn, St. Paul s United Methodist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Michael Tennis, Ward Two  
Janice Drewry, Ward Three  
Jay Burk, Ward Four  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      Robert Shanklin, Ward Five

PRESENTATION OF FEBRUARY 2011 CITIZEN OF MONTH TO CATHY SINGLETON.

Sandra Kuntz, Chairman, Mayor s Commission on that Status of Women introduced Cathy Singleton as the citizen of the month for February 2011.

Mayor Fitch presented a Certificate of Commendation from the Mayors Office.

AUDIENCE PARTICIPATION: None

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Haywood requested #4 be considered separately.

MOVED by Drewry, SECOND by Shoemate to approve the consent agenda with the exception of item #4. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval: Majorie Watters in the amount of \$362.50. Exhibits: Legal Opinion/Recommendation.
2. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of James C. Burnette II in the Workers' Compensation Court, Case No. 2010-02392K. Exhibits: **Resolution No. 2011-08.**
3. Consider approving a Second Amendment to the Trust Indenture of the Museum of the Great Plains Authority, and authorize the execution of the Second Amendment. Exhibits: Second Amendment to Trust Indenture of the Museum of the Great Plains Authority.

4. Consider setting the date of March 22, 2011, to hold a public hearing and consider closing and vacating a portion of Railroad Street in the Downtown Redevelopment Project area. Exhibits: Location Map.

Haywood requested that some explanation be given on this item.

Richard Rogalski, Planning Director, stated discussions have been going on with regards to another portion which stops at the center line of Railroad Street. This item is to start the process for the east half. When right of way if vacated the adjacent property is the property that takes that right of way. The right of way is not owned by the City it is held in trust so that when the City does not need it anymore it goes to the adjacent property owner.

Since this east half is next to the railroad right of way there was some question as to where it would revert. He stated the Oklahoma Department of Transportation (ODOT) owns that railroad right of way so they have worked with ODOT to obtain a quit claim deed from them saying they do not want it so it would revert back to the City of Lawton or LURA.

MOVED by Haywood, SECOND by Drewry, to approve setting the date of March 22, 2011, to hold a public hearing and consider closing and vacating a portion of Railroad Street in the Downtown Redevelopment Project area. AYE: Drewry, Burk, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

5. Consider approving a credit adjustment in the amount of \$1,192.15 to Prairie Home Investments service account #00013381 for the property at 2009 NW Hoover Avenue for an undetected, underground leak on the customer's water service line. Exhibits: Repair statements from Gordon Plumbing and Heating faxed to Revenue Services on 10/01/2010 and 12/01/2010.

6. Consider accepting a temporary easement from James Thomas & Janet Carpenter for right of way needed for the NW Santa Fe Bridge Replacement Project #2010-2, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Temporary easement is on file in the City Clerk's office.

7. Consider accepting a temporary easement and a permanent easement from Bob L. & Delores K. Mansell for right of way needed for the NW Santa Fe Bridge Replacement Project #2010-2, authorizing the Mayor and City Clerk to execute the documents and authorizing payment for the same. Exhibits: Easements are on file in the City Clerk's office.

8. Consider accepting a permanent easement from Walter N. & Retana F. Rhodes for right of way needed for the NW Santa Fe Bridge Replacement Project #2010-2, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Permanent easement is on file in the City Clerk's office.

9. Consider accepting the 2008 CIP Residential Phases 1 & 2 Project #2009-1 as constructed by Rudy Construction, Co. and placing the Maintenance Bond into effect. Exhibits: None.

10. Consider releasing the escrow agreement in lieu of completion of functional improvements in West Hill Addition, Part 1A, and accepting the water, sewer, streets, public drainage improvements, and maintenance bonds. Exhibits: Plat Map. Maintenance Bonds are on file in City Clerk's Office.

11. Consider approving appointments to boards and commissions. Exhibits: None.

12. Consider approval of payroll for the period of January 24 February 6, 2011.

#### OLD BUSINESS ITEMS:

13. Consider adopting an ordinance closing, vacating, and discontinuing certain streets, easements, and other rights-of-way in portions of North Addition and in Vernon Addition located in the Downtown Redevelopment Project area. Exhibits: Ordinance No. 11-\_\_\_\_ and Location Map.

Mayor Fitch stated this will be the final action as a result of the series of meetings with residents of that area and two public hearings. He stated everyone is on the same track. He stated LURA met today and established the easement for a utility corridor on Dearborn Avenue and no structure will be placed on that easement nor will it ever be closed. He stated he wanted LURA to approve this item so that it becomes part of the passage of this ordinance tonight.

Mitchell stated the LURA met today to approve the public access easement for both Bell and Railroad Streets.

MOVED by Drewry, SECOND by Haywood, to adopt **Ordinance 11-04**, waive the reading of the ordinance, read the title

only and declaring an emergency. AYE: Burk, Zarle, Haywood, Wells, Shoemate, Tennis, Drewry. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 11-04

An ordinance closing, vacating, and discontinuing certain streets, easements and other rights-of-way in portions of the north addition and in portions of the Vernon addition to the city of Lawton, Oklahoma, according to the recorded plats thereof, all in accordance with the Lawton D6 Urban Renewal project plan and the Lawton Downtown Economic Development project plan; and declaring an emergency

NEW BUSINESS ITEMS:

14. Hold a public hearing and consider an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to R-2 (Two-Family Dwelling District) zoning classification located at 2417 and 2419 SW A Avenue and 2422, 2424, and 2426 SW A Avenue. Exhibits: Ordinance No. 11-\_\_\_\_, Site Plans, Location Map, Application and CPC Minutes.

Rogalski stated this request is for two tracts: Tract 1 is Lots 11-13, Block 4, Brookover Addition (2417 and 2419 SW A Avenue) and measures 160 feet by 127 feet; Tract 2 is Lots 21-24, Block 3, West Highland Addition (2422-2426 SW A Avenue) and measures 104.67 feet by 127 feet. The proposed uses are 2 duplexes for a total of 4 units on Tract 1 and 1 duplex for a total of 2 units on Tract 2. The applicant is Joshua Nordeen, Wilson Property. The zoning of the surrounding area is R-1 and R-3 (Multiple-Family Dwelling District) to the north and west and R-1 to the south and east. The land use of the surrounding area is single-family and duplexes to the north, and single-family to the south, east, and west. The 2030 Land Use Plan designates this area as Residential/Low Density. The lots are currently vacant. On January 13, 2011, the City Planning Commission held a public hearing for this request. During the public hearing one person spoke in favor of the request, and no one spoke against the request. The CPC, by a vote of 8 0, recommended approval subject to the following conditions: 1) Lots 11-13, Block 4, Brookover Addition be tied together by deed with the stipulation that the lots cannot be sold separately and Lots 21-23, Block 3, West Highland Addition be tied together by deed with the stipulation that the lots cannot be sold separately and 2) The existing shrubs located in the sight triangle be removed or lowered to two feet in height.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Wells, SECOND by Drewry, to adopt **Ordinance 11-05**, waive the reading of the ordinance, read the title only. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 11-05

An ordinance changing the zoning classification from the existing classification of R-1 (single-family dwelling district) to R-2 (two-family dwelling district) zoning classification on the tracts of land which are hereinafter more particularly described in section one (1) hereof; approving the site plans attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

15. Consider approving and authorizing execution of a service contract with Paymentus Corporation for providing to Lawton s utility customers the availability of paying service bills by use of a credit or debit card or an electronic check through an online site or over an automated phone line. Exhibits: Master Services Agreement from Paymentus Corporation.

Rick Endicott, Finance Director, stated staff has been trying to find a company that they thought was suitable and would fit our needs from a programming standpoint and would meet the needs we had with out current software.

Staff interviewed four companies and Paymentus came out on top because it is very user friendly. He stated during the budget process last year there was discussion as to whether the City wanted to pick up the fee of using this service or the customer paying the fee. The Council decided at that time that the customer should pick up the fee and over time that fee was negotiated. A customer using this service would pay \$3.25 for up to \$300 worth of payment. One of the major reasons they feel this is necessary is because we have been beaten up for not offering credit card availability and if a customer is getting ready to be cut off and if they don t have the cash, and can pay by credit card, it is a lot cheaper than getting cut off and paying penalties and reconnect fees. Staff is hoping that around 10% will use this service. He stated they are hoping this can be done within the next couple of months.

Tennis questioned if there were plans for a kiosk in the lobby.

Endicott stated there is the availability for a kiosk and a phone could be dedicated in the lobby. They really want to push the use of the kiosk because that will keep the lines down in the customer service area.

Mayor Fitch questioned if this service would have ATM type machines around town.

Endicott stated there are no ATM type of machines available, but they could try to locate a kiosk or phone in different businesses.

Wells questioned if customers would be able to pay from their home computer.

Endicott stated yes.

Wells stated the fee is approximately 1% which is not bad at all considering most are about 3.5% or 4%.

Endicott stated the only charge the City will be responsible for is if the customer uses the electronic check feature and the checks bounces, there is a \$10 NSF charge. He stated we charge that fee back to the customer.

MOVED by Wells, SECOND by Shoemate, to approve a service contract with Paymentus Corporation. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

16. Receive a report on the City's financial condition for the 2<sup>nd</sup> Quarter of Fiscal Year 2010-2011, and provide direction to staff. Exhibits: None.

Endicott stated the finance report was distributed to the Council at the previous meeting. He stated the report is for the period of July 1<sup>st</sup> through December 31<sup>st</sup>. He stated budgeted revenue for general fund and enterprise fund is \$68,035,050 and we have collected 49.33%. Sales tax is down \$22,000 from last year, but we have collected almost 49.26% of our budgeted revenue. He stated franchise tax is up \$120,000 compared to last year and we have collected almost 51.3% of our franchise tax. Police fines and bonds are up \$62,751 compared to last year and we have collected 45% to our budget this year. With all other general fund revenue we have collected about 55%. With the Enterprise Fund, water revenue is up \$551,662 from last year and we have collected 51.19% of our budget. Sewer revenue is also up \$121,000 and we have collected 47% and refuse collection revenue is down \$44,000 and we have collected 47%. Landfill revenue is down \$439,000 from last year and our budget is right at 44%. He stated the previous year there were storms and a lot of debris went to the landfill. On expenditure side, we have spent almost 53% of general fund expenditures. We have spent 50.82% of enterprise fund and all other is 53.6%. He stated on expenditures, they have purchased some bigger items from capital outlay toward the middle of the year. He stated he feels the City is right on budget and where we need to be.

Wells questioned if we would need to use any money out of the emergency fund for the recent snow storm.

Mitchell stated no, they have covered everything so far.

Wells questioned if we will get any reimbursements from FEMA.

Mitchell stated it depends if they can make the county threshold of \$400,000.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood stated February is Black History Month and also the 102<sup>nd</sup> birthday for the NAACP. There will be a birthday event on Friday at 12 noon at Patterson Center.

Tennis stated the Public Works staff did an outstanding job of getting the streets cleared.

Shoemate stated he would also like to thank the police and fire departments.

COL Erst stated Fort Sill will be operating on delayed operations the next morning. He stated the gate construction is underway. Scott Gate on Fort Sill Boulevard is temporarily closed in coordination with the ODOT construction on Rogers Lane. Gate Two has been opened up temporarily.

Mitchell questioned if 52nd Street will be open.

COL Erst stated it would be open for normal operation.

Haywood questioned the time frame for the closing of Fort Sill gate.

COL Erst stated the projects are from February 7<sup>th</sup> to April 30<sup>th</sup>, they will then shift to Sheridan Road, Bentley Gate, from May 1<sup>st</sup> to July 31<sup>st</sup>.

Mitchell stated they would like to reschedule the CIP workshop to March 1<sup>st</sup> at 4:00 p.m.

Mayor Fitch requested that residents not leave their car unattended due to bad weather. He stated they should leave a note on the vehicle with pertinent information.

The Mayor and Council convened in executive session at 6:42 p.m. and reconvened in regular, open session at 6:52 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

17. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending investigation involving former police Lt. Charles (Todd) Palmer, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #17. No action was taken.

18. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2011-2012 between the Police Union, IUPA Local 24, and the City of Lawton, and, if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #18.

MOVED by Wells, SECOND by Drewry, to appoint Tim Wilson, Bryan Long, Sherry Anderson and James Apple as the City s negotiating team for fiscal year 2011-2012 negotiations with the City s police union and further move to designate Larry Mitchell as an alternate member of the negotiating team. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Drewry, Burk. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 6:54 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch

FRED L. FITCH, MAYOR

ATTEST:

/s/ Traci L. Hushbeck

TRACI HUSHBECK, CITY CLERK